

# Exhibit B



VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

JONES, BLECHMAN, WOLTZ & KELLY, P.C., )

Plaintiff )

vs. )

NIKOLAI I. SINKINE, )

Defendant )

Case No.: CL0801064V-04

2008 JUN 21 PM 4:41  
CLERK  
REX A. DAVIS  
CITY OF NEWPORT NEWS, VA  
OFFICE

**PETITION DISPUTING VALIDITY OF ATTACHMENT**  
**AND STATING A THIRD-PARTY INTEREST IN THE PROPERTY**  
**SOUGHT TO BE ATTACHED**

COMES NOW Tatyana Babakaeva, *pro se*, and pursuant to Virginia Code Section 8.01-573 disputes the validity of the attachment and states that she has interest in the property sought to be attached.

In support of her motion, Tatyana Babakaeva states as follows:

1. On or about June 23, 2008 Plaintiff filed a Complaint for Pre-Trial Attachment seeking pre-trial attachment of the funds held in an escrow account of Mr. Paul Wilson, Esq. ["escrow funds"] for satisfaction of alleged Principal Defendant's debt. By Tatyana Babakaeva's information and belief, the summons with accompanied complaint was served on Defendant on or about July 7, 2008, but as of the date of this Petition the service had not yet returned and

Defendant did not appear generally.

2. In the Complaint, Plaintiff does not allege that the escrow funds or any identifiable part thereof is a property of Plaintiff or Defendant.

3. Mr. Wilson is attorney of Tatyana Babakaeva who represented her in a divorce case in Hampton Circuit Court and who currently continues to serve as her escrow agent. Mr. Wilson has accepted and is currently holding, in his capacity of escrow agent for Tatyana Babakeva, the funds in the amount of \$92,291.07. As of the date of the transfer to the escrow account, the funds were owned by Tatyana Babakaeva and Defendant as tenants by entirety.

4. The Divorce Court did not establish that Defendant owns any beneficiary interest in the escrow funds. There is no property settlement agreement between divorced parties. As of the day of this Petition, the dispute over marital property is not concluded.

5. Tatyana Babakaeva, in her post-judgment petition filed with the Divorce Court on February 27, 2008, affirmatively claimed her undivided interest in the whole escrow fund.

6. After the date the Divorce Court granted to Tatyana Babakaeva divorce from the bond of matrimony, Defendant did not assert his interest in the escrow funds. Defendant also failed to claim interest in escrow funds by refusing, through his counsel, to refer the property dispute to Commissioner within 21 days after entry of the final Decree of Divorce, and thus waiving the right for equitable distribution of the marital property (attachment A).

Tatyana Babakaeva further disputes the validity of attachment on the foregoing grounds:

7. The property sought to be attached is currently a subject of an ongoing parallel litigation in Hampton Circuit Court. Plaintiff's complaint in this lawsuit is substantially a duplicate of Mr. Schempf's Petition for Enforcing Attorney Charging Lien filed in Hampton

Circuit Court on January 17, 2008 (attachment B). Tatyana Babakaeva responded with Special Appearance Objecting to Jurisdiction (Attachment C) which moves the Court, among other things, to impose sanctions on Mr.Schempf for failure to conduct proper inquiry into validity of the Attorney Charging Lien, which under the circumstances was prohibited by Virginia Code Section 8.01-3932. Mr.Schempf did not respond to Tatyana Babakaeva's request to produce legal authority supporting Mr.Schempf's claim. Both Mr.Schempf Petition and Tatyana Babakaeva's Objection with motion for sanctions are currently pending in Hampton Circuit Court (Attachment D).

8. Plaintiff states that the alleged debt was not incurred in the course of fulfilling any written or oral contract executed between Plaintiff and Defendant. Rather, Plaintiff presents a letter (which Plaintiff indicates in Complaint as "an Agreement" ) in which Defendant "agree[s] that.... amount for legal expenses and court costs incurred on [his] behalf will be paid by the closing agent out of [his] share of the net equity from the sale of [his] house". Plaintiff does not allege that the escrow fund or any identifiable part thereof is Defendant's share of the net equity, which is not. Further, Plaintiff does not allege that Mr.Wilson or Defendant is a "closing agent", which they are not. It is a well-established common-law principle that in the absence of contingent occurrence, the promise to pay which is conditioned upon such occurrence is unenforceable. Therefore, Plaintiff's claim is invalid on its face.

9. Pursuant to Virginia Supreme Court Rule 6:2-1.5(c), "upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination". Plaintiff does not allege that he provided Defendant with the required statement. In the underlying divorce case, no recovery for Defendant occurred.

10. Pursuant to Code of Virginia Section 8.01-537(A), "The petition shall also allege the existence of one or more of the grounds mentioned in 8.01-534, **AND** shall set forth specific facts in support of the allegation" [emphasis added]. Plaintiff's failed to allege specific facts in support of the allegations. Therefore, the Complaint is insufficient as a matter of law.

11. Tatyana Babakaeva bears substantial risk that if Defendant chose not to respond to the Complaint due to lack of his interest in the property sought to be attached, Tatyana Babakaeva's property may be attached as property of Defendant.

WHEREFORE, Tatyana Babakaeva prays that this Honorable Court, upon acquiring jurisdiction over this case, impanel a JURY for the purpose of inquiring onto her claim; that the Court make such Order as may be necessary to protect her rights; and that Tatyana Babakaeva is awarded with the costs of such inquiry.

Tatyana A Babakaeva

Tatyana A. Babakaeva, *pro se*

2124 Criston Dr

Newport News VA, 23602

RAYMOND H. SUTTLE  
B.M. MILLER  
RALPH M. GOLDSTEIN  
JOHN T. TOMPKINS, III  
CONWAY H. SHEILD, III  
DAVID W. OTEY  
HERBERT V. KELLY, JR.  
RICHARD B. DONALDSON, JR.  
DAVID W. OTEY, JR.  
MICHAEL B. WARE  
ROBYN HYLTON HANSEN  
LEONARD C. HUATH, JR.  
RAYMOND H. SUTTLE, JR.  
BRYAN H. SCHEMPF  
HELENA S. MOCK  
J. VANCE STALLINGS  
SUSAN E. LUSCOMB  
MATTHEW D. MCADOWS

**Jones, Blechman, Woltz & Kelly, P.C.**  
Attorneys and Counselors at Law

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ALLAN D. JONES, 1875-1954  
DANIEL BLOSSER, 1913-1997  
F.O. BLECHMAN, 1903-1986  
ARTHUR W. WOLTZ, 1905-1993  
THOMAS N. DOWNING, 1919-2001  
SVEN J. LASSEN, 1947-2006  
HERBERT V. KELLY, 1920-2007

SHAWN W. OVERBEY  
REBECCA L. SHWAYDUR AMAN  
JENNIFER L. MUSE  
LAUREN C. DADDAR  
JOSEPH F. VERSEA

REPLY TO: Newport News  
Direct Dial No. 873-8110  
Internet E-Mail Address: bschempf@jwbk.com

**COPY**

June 22, 2007

*Via Facsimile (425-6100) and Regular Mail*

Jeffrey D. Tarkington, Esquire  
Hofheimer/Ferrebee, P.C.  
1060 Laskin Road, Suite 12B  
Sandpiper Key  
Virginia Beach, VA 23451-6365

RE: Nikolai I. Sinkine v. Tatyana A. Babakaeva  
CL06-0110

Dear Mr. Tarkington:

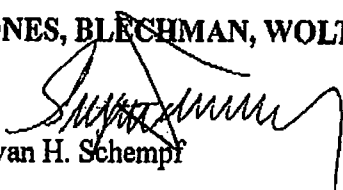
This acknowledges receipt of the Decree of Reference. As we discussed previously, I am not willing to endorse the Decree of Reference until I have had an opportunity to review the transcript of the equitable distribution hearing. I expect that I will be filing the appropriate motion to enforce the agreement we had reached at that hearing with respect to division of marital debts and property.

I would appreciate your updating me concerning the status of your client's deportation hearing.

Thank you for your usual assistance and cooperation.

Very truly yours,

JONES, BLECHMAN, WOLTZ & KELLY, P.C.

  
Bryan H. Schempf

BHS:st  
cc: Nikolai Sinkine

Please visit our website at [www.jwbk.com](http://www.jwbk.com)

Attachment A

RAYMOND H. SUTTER  
B.M. MILLNER  
RALPH A. GOLDSTEIN  
JOHN T. TOMPKINS, III  
CONWAY H. SHEILD, III  
DAVID W. OTEY  
HERBERT V. KELLY, JR.  
ALLEN C. TANNER, JR.  
RICHARD B. DONALDSON, JR.  
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BRYAN H. SCHEMPF  
HELENA S. MOCK  
J. VANCE STALLINGS  
SUSAN E. LUSCOMB  
MATTHEW D. MEADOWS

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**Jones, Blechman, Woltz & Kelly, P.C.**  
**Attorneys and Counselors at Law**

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REBECCA L. SHWAYDER AMAN  
JENNIFER L. MUSE  
JOSEPH F. VERSER  
GENEVA N. PERRY  
C. PATRICK TENCH

**REPLY TO: Newport News**  
Direct Dial No. 873-8110  
Internet E-Mail Address: [bschempf@jbwk.com](mailto:bschempf@jbwk.com)

January 17, 2008

Linda Batchelor-Smith, Clerk  
Circuit Court  
Courthouse Building  
101 Kings Way Mall  
Hampton, VA 23669-0040

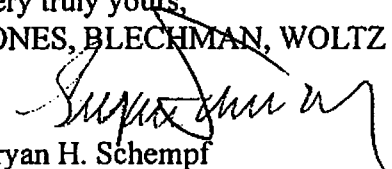
**RE: Nikolai I. Sinkine v. Tatyana A. Babakaeva**  
**Case No.: CL06-00110-00, Part IV**

Dear Ms. Batchelor-Smith:

Please find enclosed a Petition to Enforce Attorney's Charging Lien, also Notice of Hearing for same, which I would appreciate your filing in the above matter.

Thank you for your assistance.

Very truly yours,  
JONES, BLECHMAN, WOLTZ & KELLY, P.C.

  
Bryan H. Schempf

BHS/st

Enclosures

cc: Nikolai I. Sinkine (via certified and regular mail)  
Jeffrey D. Tarkington, Esq.  
Paul H. Wilson, Esq.

424684/67526.001

Attachment B

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF HAMPTON, Part IV

NIKOLAI I. SINKINE,

Plaintiff

v.

Case No.: CL06-00110-00

TATYANA A. BABAKAEVA,

Defendant

**PETITION TO ENFORCE ATTORNEY'S CHARGING LIEN**

COMES NOW Petitioner, BRYAN H. SCHEMPF, former attorney for the Plaintiff, Nikolai Sinkine, in the above cause, and moves this Honorable Court to determine that said attorney has a valid Attorney's Charging Lien in the amount of \$25,000.00, against all marital property of the parties, upon all of the monies, properties, choses in action, claims and demands in suit, and upon any property which may be awarded to the Plaintiff in this matter, upon any money or other property due to Plaintiff in the hands of Defendant, and all other property in any way involved in this proceeding; and that this Court order said amount to be paid forthwith to BRYAN H. SCHEMPF from such assets of the parties as the Court may deem appropriate.

As grounds for said motion BRYAN H. SCHEMPF represents as follows:

1. Petitioner is an attorney at law admitted to practice in the Commonwealth of Virginia with Petitioner's place of business being located at 701 Town Center Drive, Suite 800, Newport News, Virginia 23606.
2. Nikolai Sinkine, the Plaintiff in the above-styled cause, formerly resided at 1 Pelican Shores Drive, Hampton, Virginia 23666, and presently resides at 28 Kincaid Lane, Hampton, VA 23666.



3. On or about January 15, 2006, Nikolai Sinkine employed BRYAN H. SCHEMPF in his capacity as attorney for the purpose of commencing the above-styled marital dissolution proceeding in the Circuit Court for the City of Hampton, Virginia, against Tatyana A. Babakaeva.

4. On that date, the Plaintiff, Nikolai Sinkine, and Petitioner entered into a verbal agreement whereby the Plaintiff pre-paid Petitioner the sum of \$1,500.00 for a contested matter and to pay legal fees at rate of \$200.00 per hour for attorney services and \$80.00 per hour for paralegal services, together with costs and expenses in connection with Plaintiff's case.

5. After investigation and preparation, Petitioner filed a Complaint for divorce in the Circuit Court for the City of Hampton, Virginia, on behalf of the Plaintiff. The case is styled Nikolai I. Sinkine V. Tatyana A. Babakaeva, Case number CL06-00110-00. Petitioner diligently prosecuted said suit on behalf of Plaintiff.

6. On January 15, 2007, the Plaintiff signed a letter agreement setting forth his agreement to pay his legal fees and expenses relating to this case out of his share of the balance of the proceeds from the sale of the former marital residence. A copy of this letter agreement is attached as Exhibit A.

7. The balance of the proceeds from the sale of the former marital residence in the approximate amount of \$92,291.07 is being held in a trust account by Paul H. Wilson, Esquire.

8. In reliance on their verbal and written agreement, Bryan H. Schempf and the law firm of Jones, Blechman, Woltz & Kelly continued to zealously represent the Plaintiff.

9. On November 6, 2007 Bryan H. Schempf and the law firm of Jones, Blechman, Woltz & Kelly were permitted to withdraw as counsel for Plaintiff by order of this Court.

10. Petitioner is entitled to compensation for legal services rendered in the sum of \$31,140.88 and has demanded that Nikolai Sinkine pay the sum now owed to Bryan H. Schempf. However, Nikolai Sinkine failed to pay the sum owed.

11. Costs and fees incurred by Petitioner in the performance of legal services in connection with the above-styled case for Plaintiff, Nikolai I. Sinkine were itemized in monthly billing statements sent to Plaintiff.

12. On March 1, 2007, Petitioner filed a Notice of Charging Lien and an Affidavit of Attorney's Fees and Costs prior to filing this Petition, copies of which are attached hereto and incorporated by reference as Exhibit B.

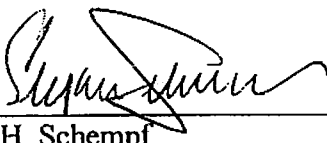
13. On January 14, 2008, Petitioner filed a second Notice of Charging Lien and Affidavit of Attorney's Fees and Costs prior to filing this Petition, copies of which are attached hereto and incorporated by reference as Exhibit C.

14. On March 1, 2007, and on January 14, 2008, Petitioner served Notice of these claims of a charging lien on Nikolai Sinkine and on Tatyana A. Babakaeva, the Defendant.

**WHEREFORE**, Petitioner respectfully requests that:

1. An Order determining that Petitioner has a valid and enforceable charging lien against all marital property of the Plaintiff, upon all of the monies, properties, choses in action, claims and demands in suit, and upon any property which may have been awarded to the Plaintiff, Nikolai Sinkine, in this matter, upon any money or other property due to Plaintiff in the hands of Defendant, and upon any other property involved in this proceeding, including, but not limited to, the proceeds from the sale of 1 Pelican Shores Drive, Hampton, Virginia which came into the hands of Paul H. Wilson, Esquire.

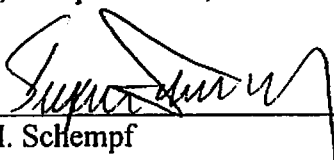
2. An Order requiring Plaintiff to satisfy the attorney's lien and pay Bryan H. Schempf the sum of \$25,000.00, and that the Court designate the specific amount against which the lien be satisfied and the time within which the lien shall be paid and satisfied.
3. An Order that interest at the judgment rate accrue until the lien has been satisfied in full.
4. Such other relief as the Court deems appropriate.

  
Bryan H. Schempf

Bryan H. Schempf, Esquire  
JONES, BLECHMAN, WOLTZ & KELLY, P.C.  
701 Town Center Drive, Suite 800  
Newport News, Virginia 23606  
Office: (757) 873-8110  
Fax: (757) 873-8053  
Counsel for Plaintiff

**CERTIFICATE**

I hereby certify a true copy of the foregoing Petition to Enforce Attorney Charging Lien was mailed via certified mail to Nikolai Sinkine, Plaintiff, at 28 Kincaid Lane, Virginia 23666 and was mailed to Tatyana A. Babakaeva, Defendant, c/o her attorney, Jeffrey D. Tarkington, Esquire, at 1060 Laskin Road, Suite 12B, Sandpiper Key, Virginia Beach, VA 23451-6365; and was mailed to Paul H. Wilson, Esquire, 744-A Thimble Shoals Blvd., Newport News, VA 23606 on this 15th day of January, 2008.

  
Bryan H. Schempf

424184/67526.001

JONES, BLECHMAN, WOLTZ & KELLY, P.C.  
Attorneys and Counselors at Law  
701 TOWN CENTER DRIVE, SUITE 800, P. O. BOX 12888  
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VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF HAMPTON, Part IV

NIKOLAI I. SINKINE,

Plaintiff

v.

Case No.: CL06-00110-00

TATYANA A. BABAKAEVA,

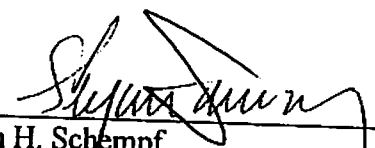
Defendant

Serve: Paul H. Wilson, Esquire  
744-A Thimble Shoals Blvd.  
Newport News, VA 23606

NOTICE & MOTION

221 ✓  
TAKE NOTICE that on the 28th day of February, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard, I will move and do hereby move this Court to grant the Petition to Enforce Attorney's Charging Lien and determine that the Attorney's Charging Lien in the amount of \$25,000.00 is valid and to grant judgment against the Plaintiff, Nikolai I. Sinkine, and against all money or other property due Plaintiff in the hands of Defendant, and all other property in any way involved in this proceeding; to include, but not be limited to, the proceeds from the sale of 1 Pelican Shores Drive, Hampton, Virginia received by Paul H Wilson, Esquire and that this Court Order said amount to be paid forthwith to BRYAN H. SCHEMPF from such assets of the parties as the Court may deem appropriate.

You may govern yourself accordingly.

  
Bryan H. Schempf

Bryan H. Schempf, Esquire  
JONES, BLECHMAN, WOLTZ & KELLY, P.C.  
701 Town Center Drive, Suite 800  
Newport News, Virginia 23606  
Office: (757) 873-8110  
Fax: (757) 873-8053  
Counsel for Plaintiff

**GOFF & MIDKIFF, PLLC**  
ATTORNEYS AND COUNSELORS AT LAW

JAMES M. GOFF II  
TEDDY J. MIDKIFF

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TELEPHONE (804) 706-9400  
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February 27, 2008

**BY COURIER**

Ms. Linda Batchelor Smith, Clerk  
City of Hampton Circuit Court  
101 King's Way Mall  
Hampton, VA 23669-0040

Re: Nikolai I. Sinkine v. Tatyana Babakaeva  
Case No.: CL06000110-00

Dear Ms. Smith:

Enclosed please find a Special Appearance Objecting to Jurisdiction by Tatyana Babakaeva to be filed in the above styled matter and one copy. Please date stamp the copy and return the same to my office. For your convenience I have enclosed a postage prepaid self addressed stamped envelope. Thank you for your assistance in this matter.

Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

  
Teddy J. Midkiff, Esq.

TJM:tnh

Enclosure

cc: Tatyana Babakaeva  
Bryan H. Schempf, Esquire,

Attachment C



**GOFF & MIDKIFF, PLLC**  
ATTORNEYS AND COUNSELORS AT LAW

JAMES M. GOFF II  
TEDDY J. MIDKIFF

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TELEPHONE (804) 706-9400  
FAX (804) 706-9402  
WWW.GOFFANDMIDKIFF.COM

February 27, 2008

**VIA FACSIMILE TO (757) 873-8053 & MAIL**

Bryan H. Schempf, Esq.  
Jones, Blechman, Woltz & Kelly, P.C.  
701 Town Center Drive, Suite 800  
Newport News, VA 23606

Re: Nikolai I. Sinkine v. Tatyana Babakaeva  
Case No.: CL06000110-00

Dear Mr. Schempf:

This letter is to advise you that I have been retained by Tatyana Babakaeva in regards to a petition for charging lien you filed in the Circuit Court for the City of Hampton. I am requesting that you withdraw your petition for a charging lien in the above styled matter for the reasons set forth in my Special Appearance Objecting to Jurisdiction. If you feel that a hearing is necessary, kindly provide my office with the legal authority which supports your position that (a) the Court has retained jurisdiction; and (b) a charging lien is appropriate when the Court has not ruled as to equitable distribution.

Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to be 'Teddy J. Midkiff', written over the word 'Sincerely,'.

Teddy J. Midkiff, Esq.

TJM:tnh

cc: Tatyana Babakaeva  
Bryan H. Schempf, Esquire



RAYMOND H. SUTTLE  
D.M. MILLNER  
RALPH M. GOLDSTEIN  
JOHN T. TOMPKINS, III  
CONWAY H. SHIELD, III  
DAVID W. OTEY  
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**Jones, Blechman, Woltz & Kelly, P.C.**  
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REBECCA L. SHWAYDER AMAN  
JENNIFER L. MUSE  
JOSEPH P. VERBER

REPLY TO: Newport News  
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Internet E-Mail Address: [bschempf@jwbk.com](mailto:bschempf@jwbk.com)

February 27, 2008

The Honorable Wilford Taylor, Jr.  
Judge of Hampton Circuit Court, Part IV  
101 Kings Way  
Hampton, VA 23669-0040

RE: Nikolai I. Sinkine v. Tatyana A. Babakaeva, Attorney's Lien  
Case No.: CL06-00110-00, Part IV  
Hearing: February 28, 2008 at 8:30 a.m.

Dear Judge Taylor:

As per my staff's call to your office, I would ask that the hearing scheduled for tomorrow morning in regard to the above-styled please be removed from the docket and continued generally until further notice from my office.

Thank you for your kind assistance in this matter.

Very truly yours,

JONES, BLECHMAN, WOLTZ & KELLY, P.C.

  
Bryan H. Schempf

BHS/pkd  
Enclosure

cc: Teddy J. Midkiff, Esq. (Via Facsimile - 804-706-9402)  
Jeffrey D. Tarkington, Esq. (Via Facsimile - 425-5200)  
Mike Walsh, Esq. (Via Facsimile - 595-0123)  
Paul Wilson, Esq. (Via Facsimile - 727-7957)  
Nikolai Sinkine

Attachment D

Please visit our website at [www.jwbk.com](http://www.jwbk.com)

No. 4758 P. 1

Feb. 27. 2008 3:17PM J8WK